IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 23096 of 2007(Y)

PETITIONERS:
----

1. NAND KISHORE,
'PRASADAM', CONVENT ROAD, NEYYATTINKARA,
THIRUVANANTHAPURAM.

2. AMRUTHA SAKETH,
'THULASI', P.O.PILATHARA, KANNUR-670 501.

BY ADV. SRI.B.JAYASURYA

RESPONDENTS:
----

1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY FOR HIGHER EDUCATION,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

3. THE COMMISSIONER FOR MEDICAL/
ENGINEERING EXAMINATIONS, HOUSING BOARD BUILDING,
THIRUVANANTHAPURAM.

4. THE SECRETARY,
MEDICAL COUNCIL OF INDIA, POCKET 14,
SECTOR 8, DWARAKA, NEW DELHI-110 075.

BY ADV. SRI.ALEXANDER THOMAS, SC, MCI
GOVERNMENT PLEADER SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.23096/07

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF THE SALIENT FEATURES OF REGULTION ON GRADUATE MEDICAL EDUCATION IN THE YEAR 1997.

EXT.P2: TRUE COPY OF THE RELEVANT PAGES OF THE PROSPECTUS FOR ADMISSION TO PROFESSIONAL DEGREE COURSES 2007 KERALA.

EXT.P3: TRUE COPY OF TE PROSPECTUS 2007 FOR MBBS/BDS/BAMS (AYUVEDA COURSES) FOR AMRITHA VISWA VIDHYAPEETHAM.

EXT.P4: TRUE COPY OF THE PROSPECTUS OF JAWAHARLAL INSTITUTE OF POST GRAUDATE MEDICAL EDUCATION AND RESEARCH-JIPMER. 2007.

EXT.P5: TRUE COPY OF THE PROSPECTUS OF DELHI UNIVERSITY, 2007 FOR MBBS/BDS.

EXT.P6: TRUE COPY OF PROSPECTUS OF THE TAMIL NADU DR.M.G.R.MEDICAL UNIVERSITY 2007 FOR MBBS/BDS.

EXT.P7: TRUE COPY OF PROSPECTUS OF GOVT. OF PONDICHERRY MEDICAL UNIVERSITY 2007 FOR MBBS/BDS.

EXT.P8: TRUE COPY OF THE REPRESENTATION DATED 17/7/07 SUBMITTED BY THE 1ST PETITIONER BEFORE THE RESPONDENTS.

EXT.P9: TRUE COPY OF THE REPRESENTATION DATED 17/7/07 SUBMITTED BY THE 2ND PETITIONER BEFORE THE RESPONDENTS.

//TRUE COPY//

ANTONY DOMINIC, J.

==========

W.P.(C) NO. 23096 OF 2007

==========

Dated this the 28th day of September, 2007

J U D G M E N T

The prayer made in this writ petition is to declare that Ext.P2 is illegal, in so far as it provides for 40% separate minimum for admission to MBBS/ BDS Course for the SC/ST candidates. For this, petitioner submits that the prescription of separate minimum of 40% in Ext.P2 proceedings issued by the 1st respondent is contrary to Ext.P1 guidelines issued by the Medical Council of India. The relevant clause in the guidelines published by the Medical Council of India as contained in Ext.P1 is extracted below for reference.

> "In case of admission of the basis of Competitive entrance examination under clause (2) to (4) of this regulation, a candidate must have passed in the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of 50% marks taken together in Physics, Chemistry and Biology at the qualifying examination as mentioned in clause (2) of regulation 4 and in addition must have come in the merit list prepared as a result of such competitive entrance examination by securing not less than 50% marks in Physics, Chemistry and

> Biology competitive examination. In respect of candidates belonging to Schedule Caste, Schedule Tribes or other Backward Class the marks obtained in Physics, Chemistry and Biology taken together in qualifying examination and competitive entrance examination be 40% instead of 50% as stated above."

From this, it is obvious that for general candidates, separate minimum of 50% in the qualifying exam and competitive examination have been prescribed. The same standard has been prescribed for candidates belonging to reservation categories also with the only modification that as against 50%, they need score only 40%. Apart from this distinction, there is no other difference. Therefore clause 9.7.5 of Ext.P2 proceedings published by the 1st respondent is in confirmity with Ext.P7 and not in conflict as canvassed by the learned counsel for the writ petitioner.

Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp